

# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## ☞ Appendix A ... segment I

### LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2009 LRB-1914/4 (For: Senator Darling)

has been copied/added to the drafting file for

**2009 LRB-4045** (For: Senator Darling)

☞ Are These "Companion Bills" ?? ... No



## **RESEARCH APPENDIX -**

**PLEASE KEEP WITH THE DRAFTING FILE**

Date Transfer Requested: 12/22/2009 (Per: GMM)

☞ The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

**2009 DRAFTING REQUEST****Bill**

Received: 02/02/2009

Received By: gmalaise

Wanted: As time permits

Identical to LRB:

For: Alberta Darling (608) 266-5830

By/Representing: Anne Sappenfield

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Children - out-of-home placement

Extra Copies:

Submit via email: YES

Requester's email: Sen.Darling@legis.wisconsin.gov

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Foster parents; anonymity; rights on removal of child from home

---

**Instructions:**

See attached--provide for anonymity as per attached constituent e-mail and redraft SSA1 to 1995 SB 354 providing for party status for four-year foster parent in change of placement proceeding

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 03/13/2009	bkraft 03/17/2009		_____			S&L
/1			phenry 03/18/2009	_____	sbasford 03/18/2009		S&L
/2	gmalaise 07/28/2009	jdye 07/29/2009	phenry 07/30/2009	_____	sbasford 07/30/2009		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	gmalaïse 09/09/2009	bkraft 09/10/2009	phenry 09/10/2009	_____	lparisi 09/10/2009		S&L
/4	gmalaïse 10/09/2009	jdye 10/12/2009	phenry 10/13/2009	_____	lparisi 10/13/2009		

FE Sent For:

&lt;END&gt;

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/3	gmalaie 09/09/2009	bkraft 09/10/2009	phenry 09/10/2009	_____	lparisi 09/10/2009		

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***LRB-1914***

07/30/2009 08:51:29 AM

Page 2

FE Sent For:

**<END>**

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May Contact:

Addl. Drafters:

Subject: **Children - out-of-home placement**

Extra Copies:

Submit via email: **YES**Requester's email: **Sen.Darling@legis.wisconsin.gov**

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/1		phenry 03/18/2009			sbasford 03/18/2009		
FE Sent For:							

*1/27/09*  
*1/29/09*  
*ph*  
*1/30/09*  
*PH/SF*  
**<END>**



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1?	gmalaise	1/bjk 3/17	3 1/17 ph	3 3/17 ph/jf			

FE Sent For:

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SSA to 955B 354  
9550552/1

**Sappenfield, Anne**

**From:** Schulze, Connie  
**Sent:** Tuesday, January 20, 2009 12:08 PM  
**To:** Sappenfield, Anne  
**Subject:** FW: Foster Parent Proposal

Here is the language Colorado uses to allow foster parents some anonymity. Take a look at it and let me know if you believe it can be incorporated into a Foster Parents Bill or Rights. Thank you so much for your time and talents!

-----Original Message-----

**From:** Ralph Gundrum [mailto:Ralph\_Gundrum@mgic.com]  
**Sent:** Friday, January 16, 2009 10:36 AM  
**To:** Schulze, Connie  
**Subject:** RE: Foster Parent Proposal

That would be ideal - I defer to you. One thing I'm worried about is that only one state (that I know of) has this type of law. You, better than I, know if it matters that we might be climbing out on a limb that makes it easier to defeat the proposal. If you're not worried about that, your proposal is certainly better/stronger.

As an aside, as much as I don't really trust the bureau, etc., I don't think they'd violate the law. They're box-checkers and I think they'd add this as another box to check off.

This message is intended for use only by the person(s) addressed above and may contain privileged and confidential information. Disclosure or use of this message by any other person is strictly prohibited. If this message is received in error, please notify the sender immediately and delete this message.

**From:** "Schulze, Connie" <Connie.Schulze@legis.wisconsin.gov>  
**To:** "Ralph Gundrum" <Ralph\_Gundrum@mgic.com>  
**Date:** 01/16/2009 10:05 AM  
**Subject:** RE: Foster Parent Proposal

Ralph,

I have read this a couple of times and I have some feedback before I send it to the drafters and they may have feedback too.

Wouldn't it be better to put the responsibility on the Department instead of the foster parents. In other words, shouldn't the licensing process include a notification both orally and in writing that states the following:

Under section \_\_\_\_, the Department of Children and Families has notified X foster parent(s) of his/her write to privacy. And as a result, will not release any identifying information to the biological family members of a child placed with them without their written permission to do so.

Your thoughts?

Connie

-----Original Message-----

From: Ralph Gundrum [mailto:Ralph.Gundrum@mgic.com]  
Sent: Tuesday, January 13, 2009 7:15 PM  
To: Schulze, Connie  
Subject: RE: Foster Parent Proposal

Below is Colorado's language, with my addition in brackets. This is short and simple - it shouldn't require much tweaking.

In addition, of course, the existing laws requiring disclosure would need to be changed/eliminated. I'll leave that to the pros.

Thanks again  
Ralph

Upon the receipt of written notice sent by a foster parent, employees of the department of human services and of county departments, or other individuals with a need to know, shall be prohibited from releasing personally identifiable information about a foster parent, other than the foster parent's first name, to any adult member of the foster child's family, unless the foster parent subsequently provides his or her express written consent for the release of the information. The consent may consist of a hand-written note by the foster parent specifying the foster child's name, the consent for release of information to the foster child's family, the foster parent's signature, and the date. The consent shall be given individually for each foster child, unless the foster children are members of a sibling group. [During the licensing process, all potential foster parents shall be notified, orally and in writing, of their rights under this section \_\_\_\_.]

48.353 (2)(b)2

48.33(5)

48.353 (2)(b)2

48.33(5)

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From: "Schulze, Connie" <Connie.Schulze@legis.wisconsin.gov>

To: "Ralph Gundrum" <Ralph.Gundrum@mgic.com>

Date: 01/13/2009 03:40 PM

Subject: RE: Foster Parent Proposal

Your rep' is Jim Ott and he and AD line up very nicely philosophically. It's very likely he would support this bill. But we need to talk strategy. It would be better to have a Democrat take the lead in the Assembly and I need to think about who that might be. So at this time, let's sit still and wait for the legislation. (Most leggies will ask to see it anyway before committing to take a lead position.)

Get me that CO language as soon as possible and I will get it to the drafters. We can add language such as your thought below at the same time we get it to the attorneys.

-----Original Message-----

From: Ralph Gundrum [mailto:Ralph\_Gundrum@mgic.com]  
Sent: Tuesday, January 13, 2009 3:36 PM  
To: Schulze, Connie  
Subject: RE: Foster Parent Proposal

Thanks - the Colorado person I corresponded with was very helpful - I searched a bit just now and couldn't find the statute, but I bet I can have it sent to me.

Do you want me to bug my Assemblyman as a potential co-sponsor? He's a Republican - ideally, a Democrat would sign on, right?

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From: "Schulze, Connie" <Connie.Schulze@legis.wisconsin.gov>

To: "Ralph Gundrum" <Ralph\_Gundrum@mgic.com>

Date: 01/13/2009 03:33 PM

Subject: RE: Foster Parent Proposal

You are welcome. I knew she'd go for it once I told her WI was practically standing alone in its policy so thanks for doing that research. And she liked the idea that it might improve foster parent recruitment too so thanks for giving me some good arguments.

If you have model legislation for the bill drafters (CO) then we can move things along fairly quickly. I bet we could get a 7-10 day turnaround.

If we have to start with me simply describing the concept, that could take longer. Probably about 2-3 weeks to get it out of drafting. And then if we have revisions, another 1-2 weeks.

AD can circulate it among her colleagues very soon after getting it back from the drafters and that's when the grassroots campaign would kick in.

-----Original Message-----

From: Ralph Gundrum [mailto:Ralph.Gundrum@gmic.com]  
Sent: Tuesday, January 13, 2009 3:28 PM  
To: Schulze, Connie  
Subject: RE: Foster Parent Proposal

Thank you and her!

The chairman of the board "thought" it was January 19th. At that meeting, they will approve (or not) the concept of the grassroots campaign - nothing will happen until a full strategy is vetted through you. We can discuss that at your leisure, since I know that nothing should happen until the legislation is introduced. Is that weeks or months away? (Its ok if your guess is way off - I'm just looking for some sense.)

I need to find the Colorado legislation that could serve as a guide...  
I'd add one thing, knowing our system - that "The licensing process shall include giving foster parents written and oral notification of their rights under this section."

Thanks again  
Ralph

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From: "Schulze, Connie" <Connie.Schulze@legis.wisconsin.gov>

To: "Ralph Gundrum" <Ralph\_Gundrum@mgic.com>

Date: 01/13/2009 02:32 PM

Subject: RE: Foster Parent Proposal

Hello Ralph,

I just met with AD. And yes, she would be happy to sponsor your bill. I will get it drafted. The drafting attorneys are swamped right now though so I don't know when I will have a draft for your review. When is the board meeting you mentioned? Also, let's talk either face to face or on the phone about grassroots strategy.

Connie

From: Ralph Gundrum [mailto:Ralph\_Gundrum@mgic.com]  
Sent: Tuesday, January 13, 2009 9:35 AM  
To: Schulze, Connie  
Subject: Foster Parent Proposal

Connie -

Welcome back! I hope your time in Florida was as fun as our recent time there.

Attached is a short summary of the states I've surveyed. I was wrong when we spoke last week - only 1 state (other than Wisconsin) has a law requiring disclosure of foster parent names to parents. I was confused because other states have rules that effectively get them to the same place.

The short version is, outside of Wisconsin, one state requires (by statute) disclosure, another requires (by statute) respecting foster parents' rights to anonymity and around 20 others have no law.

Wisconsin is clearly an outlier.

I've not totaled up the states practices, but it appears that (a) most states encourage parents and foster parents to work together, have contact, etc., (b) a few state require it and (c) a few states do not put pressure on foster parents on this issue. I will try to better categorize these states in the coming days, but it really is a "step 2"

issue anyway.

I have the "backup" for the chart attached, but need to think about how to handle emails with a variety of types of "legal disclaimers" at the end of them. I may need to withhold some of them - I just haven't thought the issue through.

Do you still think Alberta will decide this week whether she'd introduce this type of legislation? This is important because I'm reaching out to groups about a potential letter-writing campaign and one of them has an upcoming board meeting. Before that meeting, I'd like to indicate that I expect to be able to have this legislation introduced.

Thanks  
Ralph

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State of Wisconsin  
1995 - 1996 LEGISLATURE

LRBs0552/1  
GMM:skg&kaf:kat

SENATE SUBSTITUTE AMENDMENT 1,  
TO 1995 SENATE BILL 354

March 12, 1996 - Offered by COMMITTEE ON JUDICIARY.

1     **AN ACT** *to amend* 48.293 (2), 48.295 (1), 48.295 (3), 48.33 (5), 48.355 (2) (b) 2.,  
2             48.357 (1), 48.357 (2m) and 48.78 (2) (a) of the statutes; **relating to:** removal  
3             of a child from a foster home, treatment foster home or certain other physical  
4             placements.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

5             **SECTION 1.** 48.293 (2) of the statutes, as affected by 1995 Wisconsin Act 77, is  
6             amended to read:

7             48.293 (2) All records relating to a child which are relevant to the subject  
8             matter of a proceeding under this chapter shall be open to inspection by a guardian  
9             ad litem or counsel for any party, upon demand and upon presentation of releases  
10            where necessary, at least 48 hours before the proceeding. Persons entitled to inspect  
11            the records may obtain copies of the records with the permission of the custodian of  
12            the records or with permission of the court. The court may instruct counsel not to  
13            disclose specified items in the materials to the child ~~or~~, the parent or any other party



1 if the court reasonably believes that the disclosure would be harmful to the interests  
2 of the child.

3 **SECTION 2.** 48.295 (1) of the statutes is amended to read:

4 48.295 (1) After the filing of a petition and upon a finding by the court that  
5 reasonable cause exists to warrant an examination or an alcohol and other drug  
6 abuse assessment that conforms to the criteria specified under s. 48.547 (4), the court  
7 may order any child coming within its jurisdiction to be examined as an outpatient  
8 by personnel in an approved treatment facility for alcohol and other drug abuse, by  
9 a physician, psychiatrist or licensed psychologist, or by another expert appointed by  
10 the court holding at least a masters degree in social work or another related field of  
11 child development, in order that the child's physical, psychological, alcohol or other  
12 drug dependency, mental or developmental condition may be considered. The court  
13 may also order an examination or an alcohol and other drug abuse assessment that  
14 conforms to the criteria specified under s. 48.547 (4) of a parent, guardian or legal  
15 custodian whose ability to care for a child is at issue before the court. The court shall  
16 hear any objections by the child, the child's parents, guardian or legal custodian ~~or~~  
17 any other party to the request for such an examination or assessment before ordering  
18 the examination or assessment. The expenses of an examination, if approved by the  
19 court, shall be paid by the county of the court ordering the examination. The  
20 payment for an alcohol and other drug abuse assessment shall be in accordance with  
21 s. 48.361.

22 **SECTION 3.** 48.295 (3) of the statutes is amended to read:

23 48.295 (3) If the child ~~or~~, a parent ~~or any other party~~ objects to a particular  
24 physician, psychiatrist, licensed psychologist or other expert as required under this

1 section, the court shall appoint a different physician, psychiatrist, psychologist or  
2 other expert as required under this section.

3 **SECTION 4.** 48.33 (5) of the statutes is amended to read:

4 48.33 (5) IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT;  
5 CONFIDENTIALITY. If the report recommends placement in a foster home or a treatment  
6 foster home, and the name of the foster parent or treatment foster parent is not  
7 available at the time the report is filed, the agency shall provide the court and the  
8 child's parent or guardian with the name and address of the foster parent or  
9 treatment foster parent within 21 days after the dispositional order is entered,  
10 except that the court may order the information withheld from the child's parent or  
11 guardian or any other party if the court finds that disclosure would result in  
12 imminent danger to the child or to the foster parent or treatment foster parent. After  
13 notifying the child's parent or guardian, the court shall hold a hearing prior to  
14 ordering the information withheld.

15 **SECTION 5.** 48.355 (2) (b) 2. of the statutes is amended to read:

16 48.355 (2) (b) 2. If the child is placed outside the home, the name of the place  
17 or facility, including transitional placements, where the child shall be cared for or  
18 treated, except that if the placement is a foster home or treatment foster home and  
19 the name and address of the foster parent or treatment foster parent is not available  
20 at the time of the order, the name and address of the foster parent or treatment foster  
21 parent shall be furnished to the court and the parent within 21 days of the order. If,  
22 after a hearing on the issue with due notice to the parent or guardian, the judge finds  
23 that disclosure of the identity of the foster parent or treatment foster parent would  
24 result in imminent danger to the child, the foster parent or the treatment foster

1 parent, the judge may order the name and address of the prospective foster parents  
2 or treatment foster parents withheld from the parent ~~or~~ guardian or any other party.

3 **SECTION 6.** 48.357 (1) of the statutes is amended to read:

4 48.357 (1) The person or agency primarily responsible for implementing the  
5 dispositional order may request a change in the placement of the child, whether or  
6 not the change requested is authorized in the dispositional order and shall cause  
7 written notice to be sent to the child or the child's counsel or guardian ad litem,  
8 parent, foster parent, treatment foster parent or other physical custodian described  
9 in s. 48.62 (2), guardian and legal custodian. The notice shall contain the name and  
10 address of the new placement, the reasons for the change in placement, a statement  
11 describing why the new placement ~~is preferable to the present placement~~ would be  
12 in the best interests of the child and a statement of how the new placement satisfies  
13 objectives of the treatment plan ordered by the court. Any person receiving the notice  
14 under this subsection or notice of the specific foster or treatment foster placement  
15 under s. 48.355 (2) (b) 2. may obtain a hearing on the matter by filing an objection  
16 with the court within 10 days of receipt of the notice. Placements shall not be  
17 changed until 10 days after such notice is sent to the court unless the parent,  
18 guardian or legal custodian and the child, if 12 or more years of age, sign written  
19 waivers of objection, except that placement changes which were authorized in the  
20 dispositional order may be made immediately if notice is given as required in this  
21 subsection. In addition, a hearing is not required for placement changes authorized  
22 in the dispositional order except where an objection filed by a person who received  
23 notice alleges that new information is available which affects the advisability of the  
24 court's dispositional order. If a hearing is held under this subsection and the change  
25 in placement would remove a child from a foster home, treatment foster home or

1 other placement with a physical custodian described in s. 48.62 (2), the court shall  
2 permit the foster parent may, treatment foster parent or other physical custodian  
3 described in s. 48.62 (2) to make a written or oral statement during the hearing or  
4 to submit a written statement prior to the hearing, relating to the child and the  
5 requested change in placement. If a hearing is held under this subsection and the  
6 change in placement would remove a child from a foster home, treatment foster home  
7 or other physical placement described in s. 48.62 (2) in which the child has been  
8 placed for a total of 4 or more years, the foster parent, treatment foster parent or  
9 other physical custodian may be represented by counsel, may request an  
10 examination or assessment of the child under s. 48.295 by an expert of the foster  
11 parent's, treatment foster parent's or other physical custodian's own choosing, may  
12 present evidence relative to the issue of placement, including expert testimony, may  
13 confront and cross-examine witnesses and may make alternative placement  
14 recommendations. In addition, counsel for the foster parent, treatment foster parent  
15 or other physical custodian may, notwithstanding s. 48.78 (2) (a), inspect and obtain  
16 copies of all records relating to the child that are relevant to the issue of placement  
17 as provided under s. 48.293.

18 **SECTION 7.** 48.357 (2m) of the statutes is amended to read:

19 48.357 (2m) The child, the parent, guardian, or legal custodian of the child or  
20 any person or agency primarily bound by the dispositional order, other than the  
21 person or agency responsible for implementing the order, may request a change in  
22 placement under this subsection. The request shall contain the name and address  
23 of the place of the new placement requested and shall state what new information  
24 is available which affects the advisability of the current placement and why the new  
25 placement would be in the best interests of the child. This request shall be submitted

1 to the court. In addition, the court may propose a change in placement on its own  
2 motion. The court shall hold a hearing on the matter prior to ordering any change  
3 in placement under this subsection if the request states that new information is  
4 available which affects the advisability of the current placement, unless written  
5 waivers of objection to the proposed change in placement are signed by all parties  
6 entitled to receive notice under sub. (1) and the court approves. If a hearing is  
7 scheduled, the court shall notify the child, the parent, foster parent, guardian, and  
8 legal custodian of the child, any foster parent, treatment foster parent or other  
9 physical custodian described in s. 48.62 (2) of the child and all parties who are bound  
10 by the dispositional order at least 3 days prior to the hearing. A copy of the request  
11 or proposal for the change in placement shall be attached to the notice. If all the  
12 parties consent, the court may proceed immediately with the hearing. If a hearing  
13 is held under this subsection and the change in placement would remove a child from  
14 a foster home, treatment foster home or other placement with a physical custodian  
15 described in s. 48.62 (2), the court shall permit the foster parent may, treatment  
16 foster parent or other physical custodian described in s. 48.62 (2) to make a written  
17 or oral statement during the hearing or to submit a written statement prior to the  
18 hearing relating to the child and the requested change in placement. If a hearing is  
19 held under this subsection and the change in placement would remove a child from  
20 a foster home, treatment foster home or other physical placement described in s.  
21 48.62 (2) in which the child has been placed for a total of 4 or more years, the foster  
22 parent, treatment foster parent or other physical custodian may be represented by  
23 counsel, may request an examination or assessment of the child under s. 48.295 by  
24 an expert of the foster parent's, treatment foster parent's or other physical  
25 custodian's own choosing, may present evidence relative to the issue of placement,

1 including expert testimony, may confront and cross-examine witnesses and may  
2 make alternative placement recommendations. In addition, counsel for the foster  
3 parent, treatment foster parent or other physical custodian may, notwithstanding s.  
4 48.78 (2) (a), inspect and obtain copies of all records relating to the child that are  
5 relevant to the issue of placement as provided under s. 48.293.

6 **SECTION 8.** 48.78 (2) (a) of the statutes, as affected by 1995 Wisconsin Act 77,  
7 is amended to read:

8 48.78 (2) (a) No agency may make available for inspection or disclose the  
9 contents of any record kept or information received about an individual in its care  
10 or legal custody, except as provided under s. 48.357 (1) or (2m), 48.371, 48.38 (5) (b)  
11 or (d), 48.432, 48.433, 48.93 or 48.981 (7) or by order of the court.

12 **SECTION 9. Initial applicability.**

13 (1) This act first applies to hearings under section 48.357 (1) or (2m) of the  
14 statutes, as affected by this act, held on the effective date of this subsection.

15 **SECTION 10. Effective date.**

16 (1) This act takes effect on July 1, 1996 or on the day after publication,  
17 whichever is later.

18 (END)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-19147

GMM:.....

IN 3/13

Soon

SA  
x-ref

Inserts

- 1 **AN ACT** <sup>gen.</sup>; **relating to:** disclosure of the identity of a foster parent or treatment  
2 foster parent of a child and the rights of a foster parent, treatment foster parent,  
3 or other physical custodian of a child on removal of the child from the person's  
4 home.

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***Analysis by the Legislative Reference Bureau***

Under current law, a dispositional order of the court assigned to exercise jurisdiction under the Children's Code (juvenile court) that places a child outside the home must include the name of the place or facility where the child shall be cared for, except that the juvenile court may order the name and address of a foster parent or treatment foster parent to be withheld from a child's parent or guardian if the juvenile court finds that disclosure of that information would result in imminent danger to the child, the foster parent, or the treatment foster parent.

This bill provides that the name, other than the first name, and address of a person licensed to operate a foster home or treatment foster home may not be disclosed to the parent or guardian of a child placed in the home or to any other adult relative of the child without the written consent of the licensee.

Under current law, a child who is subject to a dispositional order of the juvenile court, the child's parent, guardian, or legal custodian, or any agency bound by the dispositional order (agency) may request a change in placement of the child. Currently, if the agency requests the change in placement, the agency must provide notice to the child, the child's parent, guardian, and legal custodian, and the child's foster parent, treatment foster parent, or other physical custodian stating the reasons for the change in placement, why the new placement is preferable to the current placement, and how the new placement satisfies the objectives of the child's

treatment plan. A person who receives notice of such a change in placement may obtain a hearing on the change in placement by filing an objection to the change in placement.

Current law provides a slightly different procedure for when the child or the child's parent, guardian, or legal custodian requests a change in placement. In that case, the notice must state what new information affects the advisability of the current placement and a hearing must be held unless all parties waive their objections to the change in placement.

Under either procedure, if a hearing is held and the change in placement would remove the child from a foster home or treatment foster home or from the home of another physical custodian, the juvenile court must give the foster parent, treatment foster parent, or other physical custodian an opportunity to be heard by permitting that person to make a written or oral statement at the hearing or to submit a written statement prior to the hearing relating to the child and to the change in placement.

This bill expands the rights of a foster parent, treatment foster parent, or other physical custodian in connection with a change in placement proceeding. Specifically, the bill provides that, if a hearing is held and the change in placement would remove the child from a foster home or treatment foster home or from the home of another physical custodian in which the child has been placed for a total of four or more years, the foster parent, treatment foster parent, or other physical custodian may be represented by counsel, may inspect and copy, through counsel, all records that are relevant to the proceeding, may request that the child be examined or assessed by an expert of the foster parent's, treatment foster parent's, or other physical custodian's own choosing, may present evidence, including expert testimony, may confront and cross-examine witnesses, and may present alternative placement recommendations.

The bill also changes the standard for a change in placement requested by an agency by eliminating the requirement that the request show why the new placement is preferable to the current placement and instead requiring the request to show why the new placement would be in the best interests of the child. In addition, the bill changes the standard for a change in placement requested by the child or the child's parent, guardian, or legal custodian by eliminating the requirement that the request state what *new* information is available that affects the advisability of the current placement and instead requiring the request to state what information, new or old, is available that affects the advisability of the current placement and why the new placement would be in the best interests of the child.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 48.293 (2) of the statutes is amended to read:



1           48.293 (2) All records relating to a child, or to an unborn child and the unborn  
2 child's expectant mother, ~~which that~~ are relevant to the subject matter of a  
3 proceeding under this chapter shall be open to inspection by a guardian ad litem or  
4 counsel for any party ~~and to inspection~~, by the court-appointed special advocate for  
5 the child, ~~and~~ by counsel for any foster parent, treatment foster parent, or other  
6 physical custodian described in s. 48.357 (2r) (b), upon demand and upon  
7 presentation of releases when necessary, at least 48 hours before the proceeding.  
8 Persons and unborn children, by their guardians ad litem, entitled to inspect the  
9 records may obtain copies of the records with the permission of the custodian of the  
10 records or with the permission of the court. The court may instruct counsel, a  
11 guardian ad litem, or a court-appointed special advocate not to disclose specified  
12 items in the materials to the child ~~or~~, the parent, ~~or to~~ the expectant mother, or the  
13 child's foster parent, treatment foster parent, or other physical custodian described  
14 in s. 48.357 (2r) (b) if the court reasonably believes that the disclosure would be  
15 harmful to the interests of the child or the unborn child.

History: 1977 c. 354; 1985 a. 262; 1989 a. 121; 1993 a. 16; 1995 a. 77, 275; 1997 a. 292; 1999 a. 149; 2005 a. 42.

16           **SECTION 2.** 48.295 (1) of the statutes is amended to read:

17           48.295 (1) After the filing of a petition and upon a finding by the court that  
18 reasonable cause exists to warrant a physical, psychological, mental, or  
19 developmental examination or an alcohol and other drug abuse assessment that  
20 conforms to the criteria specified under s. 48.547 (4), the court may order any child  
21 coming within its jurisdiction to be examined as an outpatient by personnel in an  
22 approved treatment facility for alcohol and other drug abuse, by a physician,  
23 psychiatrist, or licensed psychologist, or by another expert appointed by the court  
24 holding at least a master's degree in social work or another related field of child

1 development, in order that the child's physical, psychological, alcohol or other drug  
2 dependency, mental, or developmental condition may be considered. The court may  
3 also order a physical, psychological, mental, or developmental examination or an  
4 alcohol and other drug abuse assessment that conforms to the criteria specified  
5 under s. 48.547 (4) of a parent, guardian, or legal custodian whose ability to care for  
6 a child is at issue before the court or of an expectant mother whose ability to control  
7 her use of alcohol beverages, controlled substances, or controlled substance analogs  
8 is at issue before the court. The court shall hear any objections by the child ~~or~~ the  
9 child's parents, guardian, or legal custodian, or the child's foster parent, treatment  
10 foster parent, or other physical custodian described in s. 48.357 (2r) (b) to the request  
11 for such an examination or assessment before ordering the examination or  
12 assessment. The expenses of an examination, if approved by the court, shall be paid  
13 by the county of the court ordering the examination in a county having a population  
14 of less than 500,000 or by the department in a county having a population of 500,000  
15 or more. The payment for an alcohol and other drug abuse assessment shall be in  
16 accordance with s. 48.361.

History: 1977 c. 354; 1979 c. 300; 1985 a. 321; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 339; 1993 a. 474; 1995 a. 77, 225, 448; 1997 a. 27, 292; 1999 a. 149; 2005 a. 293.

17 **SECTION 3.** 48.295 (3) of the statutes is amended to read:

18 48.295 (3) If the child, the child's parent ~~or~~ the expectant mother, or the child's  
19 foster parent, treatment foster parent, or other physical custodian described in s.  
20 48.357 (2r) (b) objects to a particular physician, psychiatrist, licensed psychologist,  
21 or other expert as required under this section, the court shall appoint a different  
22 physician, psychiatrist, psychologist, or other expert as required under this section.

History: 1977 c. 354; 1979 c. 300; 1985 a. 321; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 339; 1993 a. 474; 1995 a. 77, 225, 448; 1997 a. 27, 292; 1999 a. 149; 2005 a. 293.

23 **SECTION 4.** 48.33 (5) of the statutes is amended to read:

1           48.33 (5) IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT;  
2           CONFIDENTIALITY. If the report recommends placement in a foster home or a treatment  
3           foster home, and the name of the foster parent or treatment foster parent is not  
4           available at the time the report is filed, the agency shall provide the court ~~and the~~  
5           ~~child's parent or guardian~~ with the name and address of the foster parent or  
6           treatment foster parent within 21 days after the dispositional order is entered. If the  
7           foster parent or treatment foster parent has consented under s. 48.62 (3m) to the  
8           disclosure of that information to the child's parent or guardian or to any other adult  
9           relative of the child, the agency shall also provide that information to that parent,  
10          guardian, or adult relative within those 21 days, except that the court may order the  
11          information withheld from ~~the child's that parent or, guardian, or adult relative~~ if the  
12          court finds that disclosure would result in imminent danger to the child or to the  
13          foster parent or treatment foster parent. After notifying ~~the child's that parent or,~~  
14          ~~guardian, or adult relative,~~ the court shall hold a hearing prior to ordering the  
15          information withheld.

History: 1977 c. 354; 1979 c. 300; 1983 a. 399; 1987 a. 27, 339; 1989 a. 31, 41, 107; 1993 a. 377, 385, 446, 481; 1995 a. 27, 77, 201; 1997 a. 27, 292; 2001 a. 59, 109; 2005 a. 25; 2007 a. 20.

16          **SECTION 5.** 48.355 (2) (b) 2. of the statutes is amended to read:

17          48.355 (2) (b) 2. If the child is placed outside the home, the name of the place  
18          or facility, including transitional placements, where the child shall be cared for or  
19          treated, except that if the placement is a foster home or treatment foster home and  
20          the name and address of the foster parent or treatment foster parent is not available  
21          at the time of the order, the name and address of the foster parent or treatment foster  
22          parent shall be furnished to the court ~~and the parent~~ within 21 days of the order. If  
23          the foster parent or treatment foster parent has consented under s. 48.62 (3m) to the  
24          disclosure of that information to the child's parent or guardian or to any other adult

1 relative of the child, the agency shall also provide that information to that parent,  
2 guardian, or adult relative within those 21 days, except that the judge may order that  
3 information to be withheld from the child's parent or guardian as provided in this  
4 subdivision. If, after a hearing on the issue with due notice to the parent ~~or~~, guardian,  
5 or other adult relative, the judge finds that disclosure of the identity of the foster  
6 parent or treatment foster parent would result in imminent danger to the child, the  
7 foster parent, or the treatment foster parent, the judge may order the name and  
8 address of the prospective foster parents or treatment foster parents withheld from  
9 the parent ~~or~~, guardian<sup>A</sup> or other adult relative.

**History:** 1977 c. 354; 1979 c. 295, 300, 359; 1983 a. 27, 102, 399, 538; 1985 a. 29; 1987 a. 27, 339, 383; 1989 a. 31, 41, 86, 107, 121, 359; 1991 a. 39; 1993 a. 98, 334, 377, 385, 395, 446, 481, 491; 1995 a. 27, 77, 201, 225, 275; 1997 a. 27, 205, 237, 292; 1999 a. 9, 103, 149, 186; 2001 a. 2, 16, 109; 2005 a. 277; 2007 a. 20, 116.

10 **SECTION 6.** 48.357 (1) (am) 1. of the statutes is amended to read:

11 48.357 (1) (am) 1. If the proposed change in placement involves any change in  
12 placement other than a change in placement specified in par. (c), the person or agency  
13 primarily responsible for implementing the dispositional order, the district attorney,  
14 or the corporation counsel shall cause written notice of the proposed change in  
15 placement to be sent to the child, the parent, guardian, and legal custodian of the  
16 child, any foster parent, treatment foster parent, or other physical custodian  
17 described in s. 48.62 (2) of the child, the child's court-appointed special advocate,  
18 and, if the child is the expectant mother of an unborn child under s. 48.133, the  
19 unborn child by the unborn child's guardian ad litem. If the expectant mother is an  
20 adult, written notice shall be sent to the adult expectant mother and the unborn child  
21 by the unborn child's guardian ad litem. The notice shall contain the name and  
22 address of the new placement, the reasons for the change in placement, a statement  
23 describing why the new placement is ~~preferable to the present placement~~ would be

1     in the best interests of the child, and a statement of how the new placement satisfies  
2     objectives of the treatment plan ordered by the court.

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20.

3     **SECTION 7. 48.357 (1) (am) 2. of the statutes is amended to read:**

4             **48.357 (1) (am) 2.** Any person receiving the notice under subd. 1. or notice of  
5     a specific placement under s. 48.355 (2) (b) 2., other than a court-appointed special  
6     advocate, may obtain a hearing on the matter by filing an objection with the court  
7     within 10 days after receipt of the notice. Placements may not be changed until 10  
8     days after that notice is sent to the court unless the parent, guardian, or legal  
9     custodian and the child, if 12 years of age or over, or the child expectant mother, if  
10    12 years of age or over, her parent, guardian, or legal custodian and the unborn child  
11    by the unborn child's guardian ad litem, or the adult expectant mother and the  
12    unborn child by the unborn child's guardian ad litem, sign written waivers of  
13    objection, except that changes in placement that were authorized in the dispositional  
14    order may be made immediately if notice is given as required under subd. 1. In  
15    addition, a hearing is not required for placement changes authorized in the  
16    dispositional order except when an objection filed by a person who received notice  
17    alleges that new information is available that affects the advisability of the court's  
18    dispositional order.

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20.

19    **SECTION 8. 48.357 (1) (c) 1. of the statutes is amended to read:**

20            **48.357 (1) (c) 1.** If the proposed change in placement would change the  
21    placement of a child placed in the home to a placement outside the home, the person  
22    or agency primarily responsible for implementing the dispositional order, the district  
23    attorney, or the corporation counsel shall submit a request for the change in


1 placement to the court. The request shall contain the name and address of the new  
2 placement, the reasons for the change in placement, a statement describing why the  
3 new placement is ~~preferable to the present placement~~ would be in the best interests  
4 of the child, and a statement of how the new placement satisfies objectives of the  
5 treatment plan ordered by the court. The request shall also contain specific  
6 information showing that continued placement of the child in his or her home would  
7 be contrary to the welfare of the child and, unless any of the circumstances specified  
8 in s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency  
9 primarily responsible for implementing the dispositional order has made reasonable  
10 efforts to prevent the removal of the child from the home, while assuring that the  
11 child's health and safety are the paramount concerns.

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20.

12 **SECTION 9.** 48.357 (2m) (a) of the statutes is amended to read:

13 48.357 (2m) (a) The child, the parent, guardian, or legal custodian of the child,  
14 the expectant mother, the unborn child by the unborn child's guardian ad litem, or  
15 any person or agency primarily bound by the dispositional order, other than the  
16 person or agency responsible for implementing the order, may request a change in  
17 placement under this paragraph. The request shall contain the name and address  
18 of the new placement requested and shall state what new information is available  
19 that affects the advisability of the current placement and why the new placement  
20 would be in the best interests of the child. If the proposed change in placement would  
21 change the placement of a child placed in the home to a placement outside the home,  
22 the request shall also contain specific information showing that continued placement  
23 of the child in the home would be contrary to the welfare of the child and, unless any  
24 of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, specific information

1 showing that the agency primarily responsible for implementing the dispositional  
2 order has made reasonable efforts to prevent the removal of the child from the home,  
3 while assuring that the child's health and safety are the paramount concerns. The  
4 request shall be submitted to the court. In addition, the court may propose a change  
5 in placement on its own motion.

 History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20.

6 **SECTION 10.** 48.357 (2r) of the statutes is renumbered 48.357 (2r) (a) and  
7 amended to read:

8 48.357 (2r) (a) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the  
9 change in placement would remove a child from a foster home, treatment foster  
10 home, or other placement with a physical custodian described in s. 48.62 (2), the court  
11 shall give the foster parent, treatment foster parent, or other physical custodian  
12 described in s. 48.62 (2) an opportunity to be heard at the hearing by permitting the  
13 foster parent, treatment foster parent, or other physical custodian to make a written  
14 or oral statement during the hearing or to submit a written statement prior to the  
15 hearing relating to the child and the requested change in placement.

16 (c) A foster parent, treatment foster parent, or other physical custodian  
17 described in s. 48.62 (2) who receives notice of a hearing under sub. (1) (am) 1. or (2m)  
18 (b) and an opportunity to be heard under ~~this subsection~~ par. (a) or (b) does not  
19 become a party to the proceeding on which the hearing is held solely on the basis of  
20 receiving that notice and opportunity to be heard.

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20.

21 **SECTION 11.** 48.357 (2r) (b) of the statutes is created to read:

22 48.357 (2r) (b) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the  
23 change in placement would remove a child from a foster home, treatment foster

1 home, or other placement with a physical custodian described in s. 48.62 (2) in which  
2 the child has been placed for a total of 4 or more years, the foster parent, treatment  
3 foster parent, or other physical custodian, in addition to having the opportunity to  
4 be heard as described in par. (a), may be represented by counsel, may request an  
5 examination or assessment of the child under s. 48.295 by an expert of the foster  
6 parent's, treatment foster parent's or other physical custodian's own choosing, may  
7 present evidence relative to the issue of placement, including expert testimony, may  
8 confront and cross-examine witnesses, and may make alternative placement  
9 recommendations. In addition, counsel for the foster parent, treatment foster  
10 parent, or other physical custodian may, notwithstanding s. 48.78 (2) (a), inspect and  
11 obtain copies of all records relating to the child that are relevant to the issue of  
12 placement as provided under s. 48.293.

13 **SECTION 12.** 48.38 (4) (c) of the statutes is amended to read:

14 48.38 (4) (c) The location and type of facility in which the child is currently held  
15 or placed, and the location and type of facility in which the child will be placed. If  
16 the child is or will be placed in a foster home or treatment foster home, the  
17 information specified in this paragraph may not be disclosed to the child's parent or  
18 guardian or to any other adult relative of the child without the consent of the foster  
19 parent or treatment foster parent under s. 48.62 (3m).

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149; 2001 a. 2, 59, 69, 109; 2005 a. 344, 448; 2007 a. 20.

20 **SECTION 13.** 48.62 (3m) of the statutes is created to read:

21 48.62 (3m) The name, other than the first name, and address of a person  
22 licensed to operate a foster home or treatment foster home may not be disclosed to  
23 the parent or guardian of a child placed in the home or to any other adult relative of  
24 the child without the written consent of the licensee. When the department, a county



1 department, or a child welfare agency issues a license to operate a foster home or  
2 treatment foster home, the department, county department, or child welfare agency  
3 shall notify the licensee of that confidentiality requirement. A person licensed to  
4 operate a foster home or a treatment foster home may consent to the disclosure of his  
5 or her full name and address to the parent or guardian of a child placed in the person's  
6 care or to an adult relative of the child by submitting a signed and dated statement  
7 to the department, county department, or child welfare agency stating the name of  
8 the child and indicating that the person consents to the disclosure of that information  
9 to the parent, guardian, or other adult relative. Consent under this subsection shall  
10 be given individually with respect to each child in the care of a licensee, except that  
11 a licensee may provide one consent covering all members of a sibling group in the care  
12 of the licensee.

13 **SECTION 14.** 48.78 (2) (a) of the statutes is amended to read:

14 48.78 (2) (a) No agency may make available for inspection or disclose the  
15 contents of any record kept or information received about an individual in its care  
16 or legal custody, except as provided under s. 48.357 (2r) (b), 48.371, 48.38 (5) (b) or  
17 (d) or (5m) (d), 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7), 938.51,  
18 or 938.78 or by order of the court.

History: 1979 c. 34; 1981 c. 359; 1983 a. 471 s. 7; 1985 a. 29 s. 3202 (23); 1985 a. 176, 292, 332; 1987 a. 332; 1989 a. 31, 107, 336; 1991 a. 17, 39; 1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491; 1995 a. 27 ss. 2610 to 2614p, 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283, 292; 2001 a. 38, 69, 104, 109; 2005 a. 25, 293, 344, 406, 434; 2007 a. 20 ss. 1364, 9121 (6) (a).

19 **SECTION 15.** 48.78 (2) (ag) of the statutes is amended to read:

20 48.78 (2) (ag) Paragraph (a) does not prohibit an agency from making available  
21 for inspection or disclosing the contents of a record, upon the request of the parent,  
22 guardian, or legal custodian of the child who is the subject of the record or upon the  
23 request of the child, if 14 years of age or over, to the parent, guardian, legal custodian,  
24 or child, unless the record discloses information that is confidential under s. 48.62

1     ~~(3m)~~ or the agency determines that inspection of the record by the child, parent,  
2     guardian, or legal custodian would result in imminent danger to anyone.

History: 1979 c. 34; 1981 c. 359; 1983 a. 471 s. 7; 1985 a. 29 s. 3202 (23); 1985 a. 176, 292, 332; 1987 a. 332; 1989 a. 31, 107, 336; 1991 a. 17, 39; 1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491; 1995 a. 27 ss. 2610 to 2614p, 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283, 292; 2001 a. 38, 69, 104, 109; 2005 a. 25, 293, 344, 406, 434; 2007 a. 20 ss. 1364, 9121 (6) (a).

3     **SECTION 16.** 48.78 (2) (aj) of the statutes is amended to read:

4             **48.78 (2) (aj)** Paragraph (a) does not prohibit an agency from making available  
5     for inspection or disclosing the contents of a record, upon the request of a parent,  
6     guardian, or legal custodian of a child expectant mother of an unborn child who is  
7     the subject of the record, upon the request of an expectant mother of an unborn child  
8     who is the subject of the record, if 14 years of age or over, or upon the request of an  
9     unborn child by the unborn child's guardian ad litem to the parent, guardian, legal  
10    custodian, expectant mother, or unborn child by the unborn child's guardian ad  
11    litem, unless the record discloses information that is confidential under s. 48.62 (3m)  
12    or the agency determines that inspection of the record by the parent, guardian, legal  
13    custodian, expectant mother, or unborn child by the unborn child's guardian ad litem  
14    would result in imminent danger to anyone.

History: 1979 c. 34; 1981 c. 359; 1983 a. 471 s. 7; 1985 a. 29 s. 3202 (23); 1985 a. 176, 292, 332; 1987 a. 332; 1989 a. 31, 107, 336; 1991 a. 17, 39; 1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491; 1995 a. 27 ss. 2610 to 2614p, 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283, 292; 2001 a. 38, 69, 104, 109; 2005 a. 25, 293, 344, 406, 434; 2007 a. 20 ss. 1364, 9121 (6) (a).

15    **SECTION 17.** 48.78 (2) (am) of the statutes is amended to read:

16            **48.78 (2) (am)** Paragraph (a) does not prohibit an agency from making  
17    available for inspection or disclosing the contents of a record, upon the written  
18    permission of the parent, guardian, or legal custodian of the child who is the subject  
19    of the record or upon the written permission of the child, if 14 years of age or over,  
20    to the person named in the permission if the parent, guardian, legal custodian, or  
21    child specifically identifies the record in the written permission, unless the record  
22    discloses information that is confidential under s. 48.62 (3m) or the agency

1 determines that inspection of the record by the person named in the permission  
2 would result in imminent danger to anyone.

History: 1979 c. 34; 1981 c. 359; 1983 a. 471 s. 7; 1985 a. 29 s. 3202 (23); 1985 a. 176, 292, 332; 1987 a. 332; 1989 a. 31, 107, 336; 1991 a. 17, 39; 1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491; 1995 a. 27 ss. 2610 to 2614p, 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283, 292; 2001 a. 38, 69, 104, 109; 2005 a. 25, 293, 344, 406, 434; 2007 a. 20 ss. 1364, 9121 (6) (a).

3 **SECTION 18. 48.78 (2) (ap) of the statutes is amended to read:**

4 48.78 (2) (ap) Paragraph (a) does not prohibit an agency from making available  
5 for inspection or disclosing the contents of a record, upon the written permission of  
6 the parent, guardian, or legal custodian of a child expectant mother of an unborn  
7 child who is the subject of the record, or of an expectant mother of an unborn child  
8 who is the subject of the record, if 14 years of age or over, and of the unborn child by  
9 the unborn child's guardian ad litem, to the person named in the permission if the  
10 parent, guardian, legal custodian, or expectant mother, and unborn child by the  
11 unborn child's guardian ad litem, specifically identify the record in the written  
12 permission, unless the record discloses information that is confidential under s.  
13 48.62 (3m) or the agency determines that inspection of the record by the person  
14 named in the permission would result in imminent danger to anyone.

History: 1979 c. 34; 1981 c. 359; 1983 a. 471 s. 7; 1985 a. 29 s. 3202 (23); 1985 a. 176, 292, 332; 1987 a. 332; 1989 a. 31, 107, 336; 1991 a. 17, 39; 1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491; 1995 a. 27 ss. 2610 to 2614p, 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283, 292; 2001 a. 38, 69, 104, 109; 2005 a. 25, 293, 344, 406, 434; 2007 a. 20 ss. 1364, 9121 (6) (a).

15 **SECTION 19. 938.293 (2) of the statutes is amended to read:**

16 938.293 (2) RECORDS RELATING TO JUVENILE. All records relating to a juvenile  
17 ~~which that~~ are relevant to the subject matter of a proceeding under this chapter shall  
18 be open to inspection by a guardian ad litem or counsel for any party or by counsel  
19 for any foster parent, treatment foster parent, or other physical custodian described  
20 in s. 938.357 (2r) (b), upon demand and upon presentation of releases where when  
21 necessary, at least 48 hours before the proceeding. Persons entitled to inspect the  
22 records may obtain copies of the records with the permission of the custodian of the  
23 records or with the permission of the court. The court may instruct counsel not to

1 disclose specified items in the materials to the juvenile ~~or~~, the parent, or the  
2 juvenile's foster parent, treatment foster parent, or other physical custodian  
3 described in s. 938.357 (2r) (b) if the court reasonably believes that the disclosure  
4 would be harmful to the interests of the juvenile. Section 971.23 shall be applicable  
5 in all delinquency proceedings under this chapter, except that the court shall  
6 establish the timetable for the disclosures required under s. 971.23 (1), (2m), (8), and  
7 (9).

History: 1995 a. 77, 387; 1997 a. 35; 2001 a. 16; 2005 a. 42, 344; 2007 a. 97.

8 **SECTION 20.** 938.295 (1) (b) of the statutes is amended to read:

9 938.295 (1) (b) The court shall hear any objections by the juvenile ~~and~~, the  
10 juvenile's parents, guardian, or legal custodian, or the juvenile's foster parent,  
11 treatment foster parent, or other physical custodian described in s. 938.357 (2r) (b)  
12 to the request under par. (a) for an examination or assessment before ordering the  
13 examination or assessment.

History: 1995 a. 77, 448; 2001 a. 109; 2005 a. 344.

14 **SECTION 21.** 938.295 (3) of the statutes is amended to read:

15 938.295 (3) OBJECTION TO A PARTICULAR PROFESSIONAL. If the juvenile ~~or~~, a  
16 parent, or the juvenile's foster parent, treatment foster parent, or other physical  
17 custodian described in s. 938.357 (2r) (b) objects to a particular physician,  
18 psychiatrist, licensed psychologist, or other expert, the court shall appoint a different  
19 physician, psychiatrist, psychologist, or other expert.

History: 1995 a. 77, 448; 2001 a. 109; 2005 a. 344.

20 **SECTION 22.** 938.33 (5) of the statutes is amended to read:

21 938.33 (5) IDENTITY OF FOSTER PARENT OR TREATMENT FOSTER PARENT;  
22 CONFIDENTIALITY. If the report recommends placement in a foster home or a treatment  
23 foster home, and the name of the foster parent or treatment foster parent is not  
24 available at the time the report is filed, the agency shall provide the court ~~and the~~

1 juvenile's parent or guardian with the name and address of the foster parent or  
2 treatment foster parent within 21 days after the dispositional order is entered. If the  
3 foster parent or treatment foster parent has consented under s. 48.62 (3m) to the  
4 disclosure of that information to the juvenile's parent or guardian or to any other  
5 adult relative of the juvenile, the agency shall also provide that information to that  
6 parent, guardian, or adult relative within those 21 days, except that the court may  
7 order the information withheld from the juvenile's that parent or, guardian, or adult  
8 relative if the court finds that disclosure would result in imminent danger to the  
9 juvenile or to the foster parent or treatment foster parent. After notifying ~~the~~  
10 ~~juvenile's~~ that parent or, guardian, or adult relative, the court shall hold a hearing  
11 prior to ordering the information withheld.

History: 1995 a. 77, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9; 2001 a. 59, 109; 2005 a. 25, 344.

12 **SECTION 23.** 938.355 (2) (b) 2. of the statutes is amended to read:

13 938.355 (2) (b) 2. If the juvenile is placed outside the home, the name of the  
14 place or facility, including transitional placements, where the juvenile shall be cared  
15 for or treated, except that if the placement is a foster home or treatment foster home  
16 and the name and address of the foster parent or treatment foster parent is not  
17 available at the time of the order, the name and address of the foster parent or  
18 treatment foster parent shall be furnished to the court ~~and the parent~~ within 21 days  
19 of the order. If the foster parent or treatment foster parent has consented under s.  
20 48.62 (3m) to the disclosure of that information to the juvenile's parent or guardian  
21 or to any other adult relative of the juvenile, the agency shall also provide that  
22 information to that parent, guardian, or adult relative within those 21 days, except  
23 that the judge may order that information to be withheld from the juvenile's parent  
24 or guardian as provided in this subdivision. If, after a hearing on the issue with due

1 notice to the parent ~~or~~, guardian, or adult relative, the court finds that disclosure of  
2 the identity of the foster parent or treatment foster parent would result in imminent  
3 danger to the juvenile, the foster parent, or the treatment foster parent, the court  
4 may order the name and address of the prospective foster parents or treatment foster  
5 parents withheld from the parent ~~or~~, guardian, or adult relative.

**History:** 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; s. 13.92 (2) (i).

6 **SECTION 24.** 938.357 (1) (am) 1. of the statutes is amended to read:

7 938.357 (1) (am) 1. If the proposed change in placement involves any change  
8 in placement other than a change in placement under par. (c), the person or agency  
9 primarily responsible for implementing the dispositional order or the district  
10 attorney shall cause written notice of the proposed change in placement to be sent  
11 to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any  
12 foster parent, treatment foster parent, or other physical custodian described in s.  
13 48.62 (2) of the juvenile. The notice shall contain the name and address of the new  
14 placement, the reasons for the change in placement, a statement describing why the  
15 new placement is ~~preferable to the present placement~~ would be in the best interests  
16 of the juvenile, and a statement of how the new placement satisfies objectives of the  
17 treatment plan ordered by the court.

**History:** 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

18 **SECTION 25.** 938.357 (1) (am) 2. of the statutes is amended to read:

19 938.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of  
20 a specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain  
21 a hearing on the matter by filing an objection with the court within 10 days after  
22 receipt of the notice. Placements may not be changed until 10 days after that notice  
23 is sent to the court unless the parent, guardian, or legal custodian and the juvenile,  
24 if 12 or more years of age, sign written waivers of objection, except that changes in

1 placement that were authorized in the dispositional order may be made immediately  
2 if notice is given as required under subd. 1. In addition, a hearing is not required for  
3 placement changes authorized in the dispositional order except when an objection  
4 filed by a person who received notice alleges that new information is available that  
5 affects the advisability of the court's dispositional order.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

6 **SECTION 26.** 938.357 (1) (c) 1. of the statutes is amended to read:

7 938.357 (1) (c) 1. If the proposed change in placement would change the  
8 placement of a juvenile placed in the home to a placement outside the home, the  
9 person or agency primarily responsible for implementing the dispositional order or  
10 the district attorney shall submit a request for the change in placement to the court.  
11 The request shall contain the name and address of the new placement, the reasons  
12 for the change in placement, a statement describing why the new placement is  
13 ~~preferable to the present placement~~ would be in the best interests of the juvenile, and  
14 a statement of how the new placement satisfies objectives of the treatment plan  
15 ordered by the court. The request shall also contain specific information showing  
16 that continued placement of the juvenile in his or her home would be contrary to the  
17 welfare of the juvenile and, unless any of the circumstances under s. 938.355 (2d) (b)  
18 1. to 4. applies, specific information showing that the agency primarily responsible  
19 for implementing the dispositional order has made reasonable efforts to prevent the  
20 removal of the juvenile from the home, while assuring that the juvenile's health and  
21 safety are the paramount concerns.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

22 **SECTION 27.** 938.357 (2m) (a) of the statutes is amended to read:

23 938.357 (2m) (a) *Request; information required.* The juvenile, the parent,  
24 guardian, or legal custodian of the juvenile, or any person or agency primarily bound

1 by the dispositional order, other than the person or agency responsible for  
2 implementing the order, may request a change in placement under this paragraph.  
3 The request shall contain the name and address of the new placement requested and  
4 shall state what new information is available that affects the advisability of the  
5 current placement and why the new placement would be in the best interests of the  
6 juvenile. If the proposed change in placement would change the placement of a  
7 juvenile placed in the home to a placement outside the home, the request shall also  
8 contain specific information showing that continued placement of the juvenile in the  
9 home would be contrary to the welfare of the juvenile and, unless any of the  
10 circumstances under s. 938.355 (2d) (b) 1. to 4. applies, specific information showing  
11 that the agency primarily responsible for implementing the dispositional order has  
12 made reasonable efforts to prevent the removal of the juvenile from the home, while  
13 assuring that the juvenile's health and safety are the paramount concerns. The  
14 request shall be submitted to the court. The court may also propose a change in  
15 placement on its own motion.

16 History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

17 **SECTION 28.** 938.357 (2r) of the statutes is renumbered 938.357 (2r) (a) and  
18 amended to read:

19 938.357 (2r) (a) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the  
20 change in placement would remove a juvenile from a foster home, treatment foster  
21 home, or other placement with a physical custodian described in s. 48.62 (2), the court  
22 shall give the foster parent, treatment foster parent, or other physical custodian an  
23 opportunity to be heard at the hearing by permitting the foster parent, treatment  
foster parent, or other physical custodian to make a written or oral statement during



1 the hearing or to submit a written statement prior to the hearing relating to the  
2 juvenile and the requested change in placement.

3 (c) A foster parent, treatment foster parent, or other physical custodian who  
4 receives notice of a hearing under sub. (1) (am) 1. or (2m) (b) and an opportunity to  
5 be heard under ~~this subsection~~ par. (a) or (b) does not become a party to the  
6 proceeding on which the hearing is held solely on the basis of receiving that notice  
7 and opportunity to be heard.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

8 **SECTION 29.** 938.357 (2r) (b) of the statutes is created to read:

9 938.357 (2r) (b) If a hearing is held under sub. (1) (am) 2. or (2m) (b) and the  
10 change in placement would remove a juvenile from a foster home, treatment foster  
11 home, or other placement with a physical custodian described in s. 48.62 (2) in which  
12 the juvenile has been placed for a total of 4 or more years, the foster parent, treatment  
13 foster parent, or other physical custodian, in addition to having the opportunity to  
14 be heard as described in par. (a), may be represented by counsel, may request an  
15 examination or assessment of the child under s. 938.295 by an expert of the foster  
16 parent's, treatment foster parent's, or other physical custodian's own choosing, may  
17 present evidence relative to the issue of placement, including expert testimony, may  
18 confront and cross-examine witnesses, and may make alternative placement  
19 recommendations. In addition, counsel for the foster parent, treatment foster  
20 parent, or other physical custodian may, notwithstanding s. 938.78 (2) (a), inspect  
21 and obtain copies of all records relating to the juvenile that are relevant to the issue  
22 of placement as provided under s. 938.293.

23 **SECTION 30.** 938.38 (4) (c) of the statutes is amended to read:

1           938.38 (4) (c) The location and type of facility in which the juvenile is currently  
2 held or placed, and the location and type of facility in which the juvenile will be  
3 placed. If the juvenile is or will be placed in a foster home or treatment foster home,  
4 the information specified in this paragraph may not be disclosed to the juvenile's  
5 parent or guardian or to any other adult relative of the juvenile without the consent  
6 of the foster parent or treatment foster parent under s. 48.62 (3m).

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321; 2005 a. 156, 344, 448, 2007 a. 20, 97.

7           **SECTION 31.** 938.78 (2) (a) of the statutes is amended to read:

8           938.78 (2) (a) No agency may make available for inspection or disclose the  
9 contents of any record kept or information received about an individual who is or was  
10 in its care or legal custody, except as provided under sub. (3) or s. 938.357 (2r) (b),  
11 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.51, or 938.57 (2m) or by order of the court.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283; 1999 a. 9; 2001 a. 38, 59, 109; 2003 a. 292, 321; 2005 a. 25, 277, 293, 344, 406, 434; 2007 a. 20 ss. 3834, 9121 (6) (a); 2007 a. 97.

12           **SECTION 32.** 938.78 (2) (ag) of the statutes is amended to read:

13           938.78 (2) (ag) Paragraph (a) does not prohibit an agency from making  
14 available for inspection or disclosing the contents of a record, upon the request of the  
15 parent, guardian, or legal custodian of the juvenile who is the subject of the record  
16 or upon the request of the juvenile, if 14 years of age or older, to the parent, guardian,  
17 legal custodian, or juvenile, unless the record discloses information that is  
18 confidential under s. 48.62 (3m) or the agency finds that inspection of the record by  
19 the juvenile, parent, guardian, or legal custodian would result in imminent danger  
20 to anyone.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283; 1999 a. 9; 2001 a. 38, 59, 109; 2003 a. 292, 321; 2005 a. 25, 277, 293, 344, 406, 434; 2007 a. 20 ss. 3834, 9121 (6) (a); 2007 a. 97.

21           **SECTION 33.** 938.78 (2) (am) of the statutes is amended to read:

22           938.78 (2) (am) Paragraph (a) does not prohibit an agency from making  
23 available for inspection or disclosing the contents of a record, upon the written

1 permission of the parent, guardian, or legal custodian of the juvenile who is the  
2 subject of the record or upon the written permission of the juvenile, if 14 years of age  
3 or older, to the person named in the permission if the parent, guardian, legal  
4 custodian, or juvenile specifically identifies the record in the written permission,  
5 unless the record discloses information that is confidential under s. 48.62 (3m) or the  
6 agency determines that inspection of the record by the person named in the  
7 permission would result in imminent danger to anyone.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283; 1999 a. 9; 2001 a. 38, 59, 109; 2003 a. 392, 321; 2005 a. 25, 277, 293, 344, 406, 434; 2007 a. 20 ss. 3834, 9121 (6) (a); 2007 a. 97.

8 **SECTION 34. Initial applicability.**

9 (1) CHANGES IN PLACEMENT. The treatment of sections 48.293 (2), 48.295 (1) and  
10 (3), 48.357 (1) (am) 1. and 2. and (c) 1. and (2m) (a), 48.78 (2) (a), 938.293 (2), 938.295  
11 (1) (b) and (3), 938.357 (1) (am) 1. and 2. and (c) 1. and (2m) (a), and 938.78 (2) (a) of  
12 the statutes, the renumbering and amendment of sections 48.357 (2r) and 938.357  
13 (2r) of the statutes, and the creation of sections 48.357 (2r) (b) and 938.357 (2r) (b)  
14 of the statutes first applies to a change of placement requested on the effective date  
15 of this subsection.

16 (2) FOSTER PARENT CONFIDENTIALITY. The treatment of sections 48.33 (5), 48.355  
17 (2) (b) 2., 48.38 (4) (c), 48.62 (3m), 48.78 (2) (ag), (aj), (am), and (ap), 938.33 (5),  
18 938.355 (2) (b) 2., 938.38 (4) (c), and 938.78 (2) (ag) and (am) of the statutes first  
19 applies to a person that is issued a license to operate a foster home or treatment foster  
20 home on the effective date of this subsection.

21 (END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1914/lbkins  
GMM:bjk:...

1           Insert 9-5

2           **SECTION 1.** 48.357 (2m) (b) of the statutes is amended to read:

3           48.357 (2m) (b) The court shall hold a hearing on the matter prior to ordering  
4           any change in placement requested or proposed under par. (a) if the request states  
5           that ~~new~~ information is available that affects the advisability of the current  
6           placement and why the new placement would be in the best interests of the child,  
7           unless the requested or proposed change in placement involves any change in  
8           placement other than a change in placement of a child placed in the home to a  
9           placement outside the home and written waivers of objection to the proposed change  
10          in placement are signed by all persons entitled to receive notice under sub. (1) (am)  
11          1., other than a court-appointed special advocate, and the court approves. If a  
12          hearing is scheduled, the court shall notify the child, the parent, guardian, and legal  
13          custodian of the child, any foster parent, treatment foster parent, or other physical  
14          custodian described in s. 48.62 (2) of the child, the child's court-appointed special  
15          advocate, all parties who are bound by the dispositional order, and, if the child is the  
16          expectant mother of an unborn child under s. 48.133, the unborn child by the unborn  
17          child's guardian ad litem, or shall notify the adult expectant mother, the unborn child  
18          by the unborn child's guardian ad litem, and all parties who are bound by the  
19          dispositional order, at least 3 days prior to the hearing. A copy of the request or  
20          proposal for the change in placement shall be attached to the notice. If all of the  
21          parties consent, the court may proceed immediately with the hearing.

22           **History:** 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103,  
23           149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20.

1           Insert 18-15

2           **SECTION 2.** 938.357 (2m) (b) of the statutes is amended to read:

3           938.357 (2m) (b) *Hearing; when required.* The court shall hold a hearing prior  
4   to ordering any change in placement requested or proposed under par. (a) if the  
5   request states that new information is available that affects the advisability of the  
6   current placement and why the new placement would be in the best interests of the  
7   child. A hearing is not required if the requested or proposed change in placement  
8   does not involve a change in placement of a juvenile placed in the home to a  
9   placement outside the home, written waivers of objection to the proposed change in  
10   placement are signed by all parties entitled to receive notice under sub. (1) (am) 1.,  
11   and the court approves. If a hearing is scheduled, the court shall notify the juvenile,  
12   the parent, guardian, and legal custodian of the juvenile, any foster parent,  
13   treatment foster parent, or other physical custodian described in s. 48.62 (2) of the  
14   juvenile, and all parties who are bound by the dispositional order at least 3 days prior  
15   to the hearing. A copy of the request or proposal for the change in placement shall  
16   be attached to the notice. If all of the parties consent, the court may proceed  
17   immediately with the hearing.

**History:** 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

## FOSTER PARENT CONCERNS

① Foster parents shall have a right to challenge a change of placement whether the change is requested by a parent under 48.357 or the agency responsible for implementing the disposition order under 48.64.

Current law ② If placement is for less than six months, rights are limited to notice and an opportunity to be heard.

③ If placement is for more than six months, rights are expanded to include party status (discovery rights, legal counsel, full participation in hearing on change of placement) and right to inspect to full record for relevant information on the best interest of the child. Admonition against disclosure of confidential information would apply, but inspection should not be limited to what the department or district attorney feels is relevant or to information that will be used at the hearing. 48.64(4).

48.42(4) (int.) ④ Foster parents with placement for fifteen months or more shall be allowed to file a petition for termination of parental rights. (Consistent with ASFA)

48.38(4) ⑤ Preference for placement with relatives should be modified. At the time of a child's initial placement into out of home care, the court shall consider placement with a relative. After a child has been in foster care for six months, the preference should switch to remaining with the foster parents; however, if for some reason the child must again be moved, placement with a relative shall be considered. Foster parents who have had placement of a child for six months or more should be considered first for adoption.

cf law  
48.38(1)  
48.38(4) (6m)

48.34 (1)

⑥ 48.64 needs clarification

- a. Needs to be coordinated with 48.357 regarding rights.
- b. Needs to clarify rights of foster parents whether in a fair hearing procedure or in circuit court.
- c. Needs to provide access to all records with appropriate confidentiality safeguards (often it is what is NOT to be used at a hearing that is most relevant to foster parent consideration)
- d. Needs to clarify that foster parents have party status.

## ASSEMBLY BILL 521

1 department. The notice shall include a brief, written description of the services  
2 offered or provided to the person by the county department and the name, telephone  
3 number, and address of a person to contact for more information.

NOTE: Requires notice when a person who is receiving child welfare services moves  
from a county other than Milwaukee County, to another county. See the NOTE to s. 48.48  
(17) (bm), as created by this bill.

4 SECTION 44. 48.64 (4) (a) of the statutes is renumbered 48.64 (4) (a) 1. and  
5 amended to read:

6 48.64 (4) (a) 1. Any decision or order issued by an agency that affects the head  
7 of a foster, treatment foster, or group home or the children involved may be appealed  
8 to the department under fair hearing procedures established under department  
9 rules. The department shall, upon receipt of an appeal, give the head of the home  
10 reasonable notice and opportunity for a fair hearing. The department may make  
11 such additional investigation as the department considers necessary. The  
12 department shall give notice of the hearing to the head of the home and to the  
13 departmental subunit, county department, or child welfare agency that issued the  
14 decision or order. Each person receiving notice of the hearing is entitled to be  
15 represented at the hearing. The head of a home who receives notice of intent to  
16 remove the child under sub. (1m) and who requests a hearing under this paragraph  
17 is a party to the proceeding under this paragraph.

18 2. At all hearings conducted under this subsection ~~paragraph~~, the head of the  
19 home, or a representative of the head of the home, shall have an adequate  
20 opportunity, notwithstanding s. 48.78 (2) (a), to examine all documents and records  
21 ~~to be used at the hearing that are relevant to the issue of the child's removal~~ at a  
22 reasonable time before the date of the hearing as well as during the hearing, ~~except~~  
23 that the agency may redact information from documents and records to protect the

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- 1 identity of an individual who provided information under s. 48.981 (2). The head of  
2 home, or a representative of the head of home, shall also have adequate opportunity  
3 to bring witnesses, to establish all pertinent facts and circumstances, and to question  
4 or refute any testimony or evidence, including opportunity to confront and  
5 cross-examine adverse witnesses. The department shall grant a continuance for a  
6 reasonable period of time when an issue is raised for the first time during a hearing.  
7 This requirement may be waived with the consent of the parties.
- 8 3. The decision of the department shall be based exclusively on evidence  
9 introduced at the hearing. A transcript of testimony and exhibits, or an official report  
10 containing the substance of what transpired at the hearing, together with all papers  
11 and requests filed in the proceeding, and the findings of the hearing examiner shall  
12 constitute the exclusive record for decision by the department. The department shall  
13 make the record available at any reasonable time and at an accessible place to the  
14 head of the home or his or her representative. Decisions by the department shall  
15 specify the reasons for the decision and identify the supporting evidence. No person  
16 participating in an agency action being appealed may participate in the final  
17 administrative decision on that action. The department shall render its decision as  
18 soon as possible after the hearing and shall send a certified copy of its decision to the  
19 head of the home and to the departmental subunit, county department, or child  
20 welfare agency that issued the decision or order. The decision shall be binding on all  
21 parties concerned.

NOTE: Provides that a head of a foster, treatment foster, or group home who receives notice of intent to remove the child from the home and who appeals that determination under fair hearing procedures established by DHFS by rule is a party to the fair hearing proceeding. In addition, allows the head of the home, or his or her representative, to examine all documents and records, except that an agency may redact information from documents and records that are relevant to the child's removal in order to protect the identity of an individual who provided information in reporting suspected child abuse or neglect.



1           **SECTION 45.** 48.64 (4) (c) of the statutes is amended to read:

2           48.64 (4) (c) The circuit court for the county where the ~~child is placed~~  
3           dispositional order placing a child in a foster home, treatment foster home, or group  
4           home was entered or the voluntary agreement under s. 48.63 so placing a child was  
5           made has jurisdiction upon petition of any interested party over a child who is placed  
6           in a foster home, treatment foster home, or group home. The circuit court may call  
7           a hearing, at which the head of the home and the supervising agency under sub. (2)  
8           shall be present, for the purpose of reviewing any decision or order of that agency  
9           involving the placement and care of the child. If the child has been placed in a foster  
10          home, the foster parent may present relevant evidence at the hearing. ~~The court~~  
11          ~~shall determine the case so as to promote~~ The petitioner has the burden of proving  
12          by clear and convincing evidence that the decision or order issued by the agency is  
13          not in the best interests of the child.

NOTE: Provides that the circuit court for the county in which a CHIPS dispositional order placing a child in a foster, treatment foster, or group home was entered or a voluntary agreement so placing a child was made has jurisdiction upon petition of any interested party over a child who is placed in a foster, treatment foster, or group home. This SECTION also provides that if the circuit court holds a hearing to review an agency decision or order involving the care of the child, the petitioner has the burden of proving by clear and convincing evidence that the decision or order is not in the best interests of the child.

14          **SECTION 46.** 48.72 of the statutes is amended to read:

15          **48.72 Appeal procedure.** Except as provided in s. 48.715 (6) and (7), any  
16          person aggrieved by the department's refusal or failure to issue, renew, or continue  
17          a license or by any action taken by the department under s. 48.715 has the right to  
18          an administrative hearing provided for contested cases in ch. 227. To receive an  
19          administrative hearing under ch. 227, the aggrieved person shall send to the  
20          department a written request for a hearing under s. 227.44 within 10 days after the  
21          date of the department's refusal or failure to issue, renew, or continue a license or the